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SENATE BILL 244

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Dianna J. Duran

AN ACT

RELATING TO ELECTIONS; REQUIRING PERSONS TO PRESENT  
IDENTIFICATION WHEN VOTING IN PERSON.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 1-4-5.1 NMSA 1978 (being Laws 1993,  
Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7,  
as amended) is amended to read:

"1-4-5.1. METHOD OF REGISTRATION--FORM --

A. A qualified elector may apply for registration  
by mail or in the office of the county clerk.

B. Certificate of registration forms may be  
requested from the secretary of state or any county clerk in  
person, by telephone or by mail for oneself or for others.

C. Except as provided in Subsection D of this  
section, a qualified elector who wishes to register to vote

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1 shall fill out completely and sign the certificate of  
2 registration. The qualified elector may seek the assistance of  
3 any person in completing the certificate of registration.

4 D. A qualified elector who has filed for an order  
5 of protection pursuant to the provisions of the Family Violence  
6 Protection Act and who presents a copy of that order from a  
7 state or tribal court to the registration officer shall not be  
8 required to provide address information on the certificate of  
9 registration.

10 E. Completed certificates of registration may be  
11 mailed or presented in person by the registrant or any other  
12 person to the secretary of state or presented in person by the  
13 registrant or any other person to the county clerk of the  
14 county in which the registrant resides.

15 F. If the registrant wishes to vote in the next  
16 election, the completed and signed certificate of registration  
17 shall be delivered or mailed and postmarked at least twenty-  
18 eight days before the election.

19 G. Upon receipt of a certificate of registration,  
20 the secretary of state shall send the certificate to the county  
21 clerk in the county where the qualified elector resides.

22 H. Only when the certificate of registration is  
23 properly filled out, signed by the qualified elector and  
24 accepted for filing by the county clerk as evidenced by his  
25 signature or stamp and the date of acceptance thereon and when

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1 notice has been received by the registrant shall it constitute  
2 an official public record of the registration of the qualified  
3 elector.

4 I. The secretary of state shall prescribe the form  
5 of the certificate of registration, which form shall be a  
6 postpaid mail-in format and shall be printed in Spanish and  
7 English. The certificate of registration form shall be clear  
8 and understandable to the average person and shall include  
9 brief but sufficient instructions to enable the qualified  
10 elector to complete the form without assistance. The form  
11 shall also include:

12 (1) the question "Are you a citizen of the  
13 United States of America?" and boxes for the applicant to check  
14 to indicate whether the applicant is or is not a citizen;

15 (2) the question "Will you be at least  
16 eighteen years of age on or before election day?" and boxes for  
17 the applicant to check to indicate whether the applicant will  
18 be eighteen years of age or older on election day;

19 (3) the statement "If you checked 'no' in  
20 response to either of these questions, do not complete this  
21 form "; and

22 (4) a statement informing the applicant that:

23 (a) if the form is not submitted in  
24 person by the applicant and the applicant is registering for  
25 the first time in New Mexico, the applicant must submit with

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1 the form a copy of a current and valid photo identification,  
2 utility bill, bank statement, government check, paycheck or  
3 other government document that shows the name and address of  
4 the applicant; and

5 (b) [if] the applicant [~~does not~~] must  
6 submit the required identification [~~he will be required to do~~  
7 ~~so~~] when he votes in person or absentee in person. "

8 Section 2. Section 1-5-10 NMSA 1978 (being Laws 1969,  
9 Chapter 240, Section 112, as amended) is amended to read:

10 "1-5-10. VOTER LISTS--SIGNATURE ROSTERS--USE DURING  
11 ELECTION. --

12 A. Each precinct board using voter lists shall post  
13 securely at or near the entrance of the polling place one copy  
14 of the voter list for use of the voters prior to voting. The  
15 posted copy shall not contain a listing of voter social  
16 security numbers.

17 B. The presiding judge of the precinct board shall  
18 assign one judge of the board to be in charge of one copy of  
19 the voter list, which shall be used to confirm the registration  
20 and voting of each person offering to vote.

21 C. The presiding judge of the precinct board shall  
22 assign one election clerk to be in charge of the signature  
23 roster.

24 D. The judge assigned to the voter list used for  
25 confirmation of registration and voting shall determine that

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1 each person offering to vote is registered and, in the case of  
2 a primary election, that the voter is registered in a party  
3 designated on the primary election ballot. If the person's  
4 registration is confirmed by the presence of his name on the  
5 voter list or if the person presents a certificate under the  
6 seal and signature of the county clerk showing that he is  
7 entitled to vote in the election and to vote in that precinct,  
8 the judge shall announce to the election clerks the list number  
9 and the name of the voter as shown on the voter list.

10 E. The election clerk shall locate that list number  
11 and name on the signature roster and shall require the voter to  
12 sign his usual signature or, if unable to write, to make his  
13 mark opposite his printed name. If the voter makes his mark,  
14 it shall be witnessed by one of the judges of the precinct  
15 board. ~~[If the signature roster indicates that the voter is~~  
16 ~~required to present a form of identification before voting]~~

17 The election judge shall ask the voter for a current and valid  
18 photo identification or a copy of a current utility bill, bank  
19 statement, government check, paycheck or other government  
20 document that shows and matches the name and address of the  
21 voter as indicated on the signature roster. If the voter does  
22 not provide the required identification, he shall be allowed to  
23 vote on a provisional paper ballot.

24 F. The election judge shall follow the procedures  
25 provided for in Sections 1-5-12 and 1-12-8 NMSA 1978 if a

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1 person whose name does not appear on the signature list  
2 requests to vote or a person is required to vote on a  
3 provisional paper ballot.

4 G. A voter shall not be permitted to vote until he  
5 has properly signed his usual signature or made his mark in the  
6 signature roster.

7 H. After the poll is closed, the election clerk in  
8 charge of a signature roster shall draw a single horizontal  
9 line in ink through each signature space in the signature  
10 roster where no signature or mark appears. "

11 Section 3. Section 1-6-5 NMSA 1978 (being Laws 1969,  
12 Chapter 240, Section 131, as amended by Laws 2003, Chapter 355,  
13 Section 4 and by Laws 2003, Chapter 356, Section 19 and also by  
14 Laws 2003, Chapter 357, Section 2) is amended to read:

15 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT--  
16 MARKING AND DELIVERY OF BALLOT IN PERSON. --

17 A. The county clerk shall mark each completed  
18 absentee ballot application with the date and time of receipt  
19 in the clerk's office and enter the required information in the  
20 absentee ballot register. The county clerk shall then  
21 determine if the applicant is a voter, an absent uniformed  
22 services voter or an overseas voter.

23 B. If the applicant does not have a valid  
24 certificate of registration on file in the county and he is not  
25 a federal qualified elector or if the applicant states he is a

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1 federal qualified elector but his application indicates he is  
2 not a federal qualified elector, an absentee ballot shall not  
3 be issued and the county clerk shall mark the application  
4 "rejected" and file the application in a separate file from  
5 those accepted.

6 C. The county clerk shall notify in writing each  
7 applicant of the fact of acceptance or rejection of his  
8 application and, if rejected, shall explain why the application  
9 was rejected.

10 D. If the applicant has on file with the county a  
11 valid certificate of registration that indicates that the  
12 applicant is a voter who registered by mail without submitting  
13 the required identification, the county clerk shall notify the  
14 voter that he must submit with his absentee ballot a copy of a  
15 current and valid photo identification, utility bill, bank  
16 statement, government check, paycheck or other government  
17 document that shows the name and address of the applicant. The  
18 county clerk shall note on the absentee ballot register and  
19 signature roster that the applicant's absentee ballot must be  
20 returned with the required identification.

21 E. If the county clerk finds that the applicant is  
22 a voter other than a federal qualified elector or overseas  
23 voter, the county clerk shall mark the application "accepted"  
24 and, beginning twenty-eight days before the election, deliver  
25 an absentee ballot to the voter in the county clerk's office or

1 mail to the applicant an absentee ballot and the required  
2 envelopes for use in returning the ballot. If the county clerk  
3 finds that the applicant is a federal qualified elector or  
4 overseas voter, the county clerk shall mark the application  
5 "accepted" and beginning forty-five days before the election,  
6 mail to the applicant an absentee ballot and the required  
7 envelopes for use in returning the ballot. Acceptance of an  
8 application of a federal qualified elector constitutes  
9 registration for the election in which the ballot is to be  
10 cast. Acceptance of an application from an overseas voter who  
11 is not an absent uniformed services voter constitutes a request  
12 for changing information on the certificate of registration of  
13 any such voter. An absent voter shall not be permitted to  
14 change his party affiliation during those periods when change  
15 of party affiliation is prohibited by the Election Code. Upon  
16 delivery of an absentee ballot to a voter in the county clerk's  
17 office or mailing of an absentee ballot to an applicant who is  
18 a voter, an appropriate designation shall be made on the  
19 signature line of the signature roster next to the name of the  
20 voter who has been provided or mailed an absentee ballot.

21 F. If an application for an absentee ballot is  
22 delivered in person to the county clerk and is accepted, the  
23 county clerk shall provide the voter an absentee ballot and it  
24 shall be marked by the applicant in a voting booth of a type  
25 prescribed by the secretary of state, sealed in the proper

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1 envelopes and otherwise properly executed and returned to the  
2 county clerk or his authorized representative before the voter  
3 leaves the office of the county clerk. The act of marking the  
4 absentee ballot in the office of the county clerk shall be a  
5 convenience to the voter in the delivery of the absentee ballot  
6 and does not make the office of the county clerk a polling  
7 place subject to the requirements of a polling place in the  
8 Election Code other than is provided in this subsection. It  
9 shall be unlawful to solicit votes, display or otherwise make  
10 accessible any posters, signs or other forms of campaign  
11 literature whatsoever in the clerk's office. Absentee ballots  
12 may be marked in person at the county clerk's office during the  
13 regular hours and days of business beginning on the twenty-  
14 eighth day preceding the election and from 10:00 a.m. to 6:00  
15 p.m. on the Saturday immediately prior to the date of the  
16 election. In marking the absentee ballot, the voter, pursuant  
17 to the provisions of Section 1-12-15 NMSA 1978, may be assisted  
18 by one person of the voter's choice.

19 G. Commencing on the third Saturday prior to an  
20 election, an absent voter may vote in person, on an electronic  
21 voting machine at an alternate location established by the  
22 county clerk. In class A counties with more than two hundred  
23 thousand registered voters, the county clerk shall establish  
24 not less than twelve alternate voting locations as a  
25 convenience to the voters. For class A counties with two

. 149595. 1

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1 hundred thousand registered voters or less, the county clerk  
2 shall establish not less than four alternate voting locations.  
3 In non-class A counties with more than ten thousand registered  
4 voters, the county clerk shall establish at least one alternate  
5 voting location. In non-class A counties with ten thousand  
6 registered voters or less, early voting shall be conducted in  
7 the office of the county clerk or at such alternative locations  
8 as may be designated by the county clerk. Absentee voting may  
9 be done at an alternate location from 12:00 p. m. to 8:00 p. m. ,  
10 Tuesday through Friday, and 10:00 a. m. to 6:00 p. m. Saturday  
11 through the Saturday immediately prior to the election. The  
12 county clerk shall ensure that procedures established for  
13 processing an absent voter application and for voting by  
14 absentee ballot are complied with at each alternate location.  
15 If the otherwise qualified voter does not present the required  
16 form of identification, the voter shall be given a provisional  
17 ballot in accordance with the provisions of Section 1-12-8 NMSA  
18 1978.

19 H. Absentee ballots shall be airmailed to  
20 applicants temporarily domiciled inside or outside the  
21 continental limits of the United States not later than on the  
22 Thursday immediately prior to the date of the election.

23 I. An absentee ballot shall not be delivered or  
24 mailed by the county clerk to any person other than the  
25 applicant for such ballot.

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1           J. The county clerk shall accept and process, with  
2 respect to a primary or general election for any federal  
3 office, any otherwise valid voter registration application from  
4 an absent uniformed services voter or overseas voter if the  
5 application is received not less than thirty days before the  
6 election. The county clerk shall also accept and process  
7 federal write-in absentee ballots from overseas voters in  
8 general elections for federal offices in accordance with the  
9 provisions of Section 103 of the federal Uniformed and Overseas  
10 Citizens Absentee Voting Act.

11           K. The secretary of state and each county clerk  
12 shall make reasonable efforts to publicize and inform voters of  
13 the times and locations for absentee voting. "

14           Section 4. Section 1-12-8 NMSA 1978 (being Laws 1969,  
15 Chapter 240, Section 247, as amended) is amended to read:

16           "1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING.--

17           A. A person shall be permitted to vote on a  
18 provisional paper ballot even though his original certificate  
19 of registration cannot be found in the county register or even  
20 if his name does not appear on the signature roster, provided:

21                   (1) his residence is within the boundaries of  
22 the county in which he offers to vote;

23                   (2) his name is not on the list of persons  
24 submitting absentee ballots; and

25                   (3) he executes a statement swearing or

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1 affirming to the best of his knowledge that he is a qualified  
2 elector, is currently registered and eligible to vote in that  
3 county and has not cast a ballot or voted in that election.

4 B. A voter shall vote on a provisional paper ballot  
5 if the voter

6 [~~(1)~~] ~~has not previously voted in a general~~  
7 ~~election in New Mexico;~~

8 ~~(2) did not register to vote in person;~~

9 ~~(3) did not submit the required identification~~  
10 ~~with the certificate of registration form; and~~

11 (4) does not present to the election judge  
12 one of the following forms of identification that matches the  
13 name and address on the voter's certificate of registration:

14 [~~(a)~~] (1) a current and valid photo  
15 identification; or

16 [~~(b)~~] (2) a copy of a current utility bill,  
17 bank statement, government check, paycheck or other government  
18 document that shows the name and address of the voter.

19 C. An election judge shall have the voter sign the  
20 signature roster and issue the voter a provisional paper  
21 ballot, an outer envelope and an official inner envelope. The  
22 voter shall vote on the provisional paper ballot in secrecy and  
23 when done, place the ballot in the official inner envelope and  
24 place the official inner envelope in the outer envelope and  
25 return it to the precinct officer. The election judge shall

1 ensure that the required information is completed on the outer  
2 envelope, have the voter sign it in the appropriate place and  
3 place it in an envelope designated for provisional paper  
4 ballots.

5 D. Knowingly executing a false statement  
6 constitutes perjury as provided in the Criminal Code of this  
7 state, and voting on the basis of such falsely executed  
8 statement constitutes fraudulent voting. "

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